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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,312	07/07/2003	William A. Czajkoski		4251

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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,312

Applicant(s)

CZAJKOSKI, WILLIAM A.

Examiner

Josiah Cocks

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings filed with the application on 7/7/2003 are accepted by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by *Fieber* (US # 5,287,844).

Fieber discloses a collapsible grill and stand substantially as described in applicant's claims 1 and 9 including a grill member supported by a stand above a heating location where all parts of the stand are spaced apart laterally from the heating location (see Fig. 1).

4. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by *Scheller* (US # 5,944,009).

Scheller discloses a collapsible grill and stand substantially as described in applicant's claims 2-4 including a grill member (6) supported by a stand (2) above a heating location (4), the stand including an upright post, a telescoping insert (16), a laterally extending arm (24), and

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support means (60). The support means includes a support assembly spaced apart from the heating location (see Fig. 3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Fieber* (US # 5,287,844).

Fieber discloses a collapsible grill and stand that is portable and intended to be easy to assembly and disassemble (see col. 2, lines 6-24). The selection of particular disassembled dimensions would be dependent upon such factors as the size of the grill and stand itself. To have selected the dimensions claimed by applicant would be simply an obvious matter of engineering design choice and is not given any patentable weight. Further, a person of ordinary skill in the art would reasonably select applicant's dimensions for the disassembled size of the grill and stand of *Fieber* in order to render the apparatus portable.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Scheller*, as applied to claim 2 above, in view of *Robertson* (US # 4,117,825).

Scheller discloses all the limitations of claim 4 except that the support means includes two pivotally attached support members.

Robertson teaches a cooking stand in the same field of endeavor as *Scheller* wherein the stand of *Robertson* includes pivotally attached support members (202) (see Figs. 4 and 5)

Therefore, in regard to claim 4, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the stand of *Scheller* to include pivoting support members as taught by *Robertson* for the desirable purpose of providing supports that can be pivoted to a stabilizing position when the stand is in use (see *Robertson*, col. 3, lines 22-28) and a compact position for carrying (see *Robertson*, claims 1 and 2).

8. Claims 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Scheller*, as applied to claim 2 above, in view of *Gellatly* (US # 4,065,085).

Scheller discloses all the limitations of claims 5, 6, and 8 except for a rotation limiting assembly as described.

Gellatly teaches a grill stand in the same field of endeavor as *Scheller* wherein the stand of *Gellatly* includes a rotation assembly that includes a rotating collar (16) and an attached lug/hook (20) that is inserted into slot (15). The horizontal arcuate slot portion (15b) and is guides and limits the rotation of the stand (see Fig. 3) (see col. 2, lines 45-58).

Therefore, in regard to claims 5, 6, and 8, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the stand of *Scheller* to include the rotating and rotating limiting assembly of *Gellatly* as this assembly desirably allows the arm of a grill stand to be rotated between a position extending over the fire to a position clear of the fire for easy unloading of the grill (see *Gellatly*, col. 2, lines 54-58).

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Conclusion

9. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Ruble, Preston, Kott, and Nudo et al.* are included to further show the state of the art regarding collapsible grill stands.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
August 5, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749